The Commonwealth of Massachusetts

**DEPARTMENT OF
TELECOMMUNICATIONS AND ENERGY**

D.T.E. 05-47 September 8, 2005

Petition of NSTAR Gas Company for approval by the Department of Telecommunications and Energy pursuant to G.L. c. 164, § 94A, for approval of a long-term transportation capacity agreement with Dartmouth Power Associates Limited Partnership.

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I. INTRODUCTION

On June 30, 2005, pursuant to G.L. c. 164, § 94A, NSTAR Gas Company ("NSTAR" or the "Company") filed with the Department of Telecommunications and Energy ("Department") a petition for approval of a permanent release agreement ("Agreement") with Dartmouth Power Associates Limited Partnership ("Dartmouth Power"). Under the Agreement, Dartmouth Power will permanently release to NSTAR long-term transportation capacity on the interstate pipeline owned and operated by Algonquin Gas Transmission, LLC ("Algonquin"). The Company's petition was docketed as D.T.E. 05-47.

Pursuant to notice duly issued, the Department held a public hearing on this matter on July 28, 2005. At the public hearing, the Department granted motions by Algonquin and Dartmouth Power for limited participant status. The Company submitted a brief on August 18, 2005. The evidentiary record consists of six exhibits submitted by NSTAR and NSTAR's responses to 13 information requests issued by the Department.[1]

II. DESCRIPTION OF NSTAR'S PROPOSAL

NSTAR states that the proposed Agreement will add firm primary transportation capacity on the Algonquin pipeline to its resource portfolio with a maximum daily transportation quantity of 14,010 MMBtu per day and a maximum annual transportation quantity of 5,113,650 MMBtu (Exh. NSTAR-2, at 1). The proposed capacity is currently

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[1] The Department, on its own motion, hereby moves the exhibits into the record of this proceeding. The Department granted NSTAR's two motions for protective treatment of the following exhibits: NSTAR-5, NSTAR-6, DTE-NSTAR-2-6, DTE-NSTAR-2-9, and DTE-NSTAR-2-10.

under contract to Dartmouth Power through October 31, 2012 (Exh. NSTAR-1, at 3). Presently, the Company has accepted temporary release of the capacity for the period August 1, 2005 through the earlier of July 31, 2006 or the closing date of the Agreement (Exh. NSTAR-2, at 1).[2] In essence, if the Department approves the Agreement, the interim arrangement will terminate, and Dartmouth Power will permanently release the capacity to NSTAR over the remaining term of the contract, through October 31, 2012 (Exh. NSTAR-1, at 3; see also Exh. NSTAR-2, at 1).

III. STANDARD OF REVIEW

In evaluating a gas utility's resource options for the acquisition of commodity resources as well as for the acquisition of capacity under G.L. c. 164, § 94A, the Department examines whether the acquisition of the resource is consistent with the public interest. Commonwealth Gas Company, D.P.U. 94-174-A at 27 (1996). In order to demonstrate that the proposed acquisition of a resource that provides commodity and/or incremental resources is consistent with the public interest, a local distribution company ("LDC") must show that the acquisition (1) is consistent with the company's portfolio objectives, and (2) compares favorably to the range of alternative options reasonably available to the company at the time of the acquisition or contract renegotiation. Id.

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2 The closing date is "as soon as practicable but no later than five (5) business days following the date on which all of the Closing Conditions [e.g., obtaining approval from the Department] have been satisfied or waived" (Exh. NSTAR-2, at 2).

In establishing that a resource is consistent with the company's portfolio objectives, the company may refer to portfolio objectives established in a recently approved forecast and requirements plan or in a recent review of supply contracts under G.L. c. 164, § 94A, or may describe its objectives in the filing accompanying the proposed resource. Id. In comparing the proposed resource acquisition to current market offerings, the Department examines relevant price and non-price attributes of each contract to ensure a contribution to the strength of the overall supply portfolio. Id. at 28. As part of the review of relevant price and non-price attributes, the Department considers whether the pricing terms are competitive with those for the broad range of capacity, storage and commodity options that were available to the LDC at the time of the acquisition, as well as with those opportunities that were available to other LDCs in the region. Id. In addition, the Department determines whether the acquisition satisfies the LDC's non-price objectives including, but not limited to, flexibility of nominations and reliability and diversity of supplies. Id. at 29. In making these determinations, the Department considers whether the LDC used a competitive solicitation process that was fair, open and transparent. The Berkshire Gas Company, D.T.E. 02-56, at 9 (2002); Bay State Gas Company, D.T.E. 02-52, at 8 (2002); KeySpan Energy Delivery New England, D.T.E. 02-54, at 9 (2002); The Berkshire Gas Company, D.T.E. 02-19, at 11 (2002).

IV. ANALYSIS AND FINDINGS

In determining whether the proposed Agreement is consistent with the public interest, we first look at whether it is consistent with NSTAR's portfolio objectives. In the Company's most recently approved supply plan, NSTAR Gas Company, D.T.E. 02-12, at 48-49 (2003),[3] the Company demonstrated a requirement for "unserved need" totaling 397 BBTu (or 397,000 MMBtus) in a design winter beginning in the 2005/2006 year (see also Exh. DTE-NSTAR-2-1, at 1). Although the Company at the time did not identify a need to procure firm seasonal resources to fill the gap between firm requirements and available portfolio resources, NSTAR asserts that this was due to prevailing market conditions which indicated that up to 500 BBTu of citygate supplies would be available to meet sendout requirements (id.).

With respect to the proposed acquisition of capacity in the immediate proceeding, the Department notes the gap between the Company's firm requirements and available portfolio resources towards the end of the forecast period in its approved supply plan. See D.T.E. 02-12, at 48-49. The Department concludes that the acquisition of primary transportation capacity will help the Company address this identified design winter shortfall. Therefore, the Department finds the Company's acceptance of the released Dartmouth Power capacity to be consistent with NSTAR's portfolio objectives as established in its approved supply plan in D.T.E. 02-12.

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3 NSTAR's Load Forecast and Resource Plan for the five-year period from 2005/2006 to 2009/2010 is currently pending before the Department in NSTAR Gas Company, D.T.E. 05-46. While NSTAR asserts in this proceeding that the Agreement is consistent with its portfolio objectives in the pending proceeding (Exh. NSTAR-1, at 6-8; NSTAR Initial Brief at 4), the Department is unable to evaluate the Agreement against an unapproved proposal and instead must consider the most recently approved supply plan. See D.P.U. 94-174-A at 27.

Next, we consider whether the acquisition of the proposed capacity compares favorably to the range of alternative options reasonably available to the Company at the time of the acquisition. In January 2005, the Company issued a request for proposals ("RFP") to solicit proposals both for the 2005/2006 winter season and for winter services over a five-year period from 2005/2006 to 2009/2010 (Exh. NSTAR-1, at 12; see also Exh. DTE-NSTAR-2-6). The Company solicited proposals for quantities ranging from 5,000 MMBtu per day in 2005/2006 to 22,000 MMBtu per day in 2009/2010 (Exh. NSTAR-1, at 12). Of the eleven different proposals from nine separate bidders, one respondent ultimately withdrew its offer, and nine involved the use of secondary capacity rather than firm transportation capacity, which the Company deemed to be insufficient to meet NSTAR's reliability requirements (id. at 13). The remaining bidder, Distrigas of Massachusetts ("DOMAC"), offered a five-year arrangement to provide the maximum requested quantities to the New Bedford/Plymouth service area on a firm basis, but did not offer to fulfill the total quantities requested in the RFP (id.). Although the DOMAC option did not resolve the identified need for incremental delivery, the Company concluded that DOMAC was the only party that could provide a citygate delivered service on an adequately reliable basis and therefore constituted the sole reasonably available alternative to the Dartmouth Power Agreement (id. at 14). The Company's subsequent analysis comparing the DOMAC alternative to Dartmouth Power capacity demonstrates that the

Dartmouth Power capacity would be the least-cost resource alternative under two separate gas-supply scenarios (Exh. NSTAR-5).[4]

In addition, the proposed Agreement enhances the supply diversity as well as reliability and flexibility attributes of NSTAR's resource portfolio. For example, were the Company to purchase the five-year citygate service offered by DOMAC during the January 2005 RFP, NSTAR would become even more dependent upon a single vendor's services (Exh. NSTAR-1, at 20). Further, the acquisition of 14,010 MMBtu per day of firm transportation will help ensure firm deliverability to its New Bedford Division, which is served by the Algonquin G-Lateral system, one of the most constrained parts of the Algonquin system (id. at 8). Over the long term, the Dartmouth Power capacity should also provide access to additional resources, such as upstream supplies on the Tennessee Gas Pipeline Company's system, or supplies from potential liquified natural gas terminal facilities that propose to serve the Northeastern United States market (id. at 19-20).

NSTAR has demonstrated that the acquisition of the Dartmouth Power capacity is consistent with the Company's portfolio objectives, and compares favorably to the range of

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4 To develop a comparison between the bundled price (i.e., capacity and commodity) offered by DOMAC and the price of the Dartmouth Power capacity, the Company created a cost analysis comparing: (1) the cost of the Dartmouth Power capacity (AFT-2 tariff rate); (2) the cost of the commodity that would be purchased for transport over the Dartmouth capacity (evaluated under two separate gas-supply scenarios: a) the purchase of gas supply at the Mendon, Massachusetts receipt point; and b) the purchase of gas supply at Waddington, New York with transport to the Mendon receipt point); and (3) the cost of establishing delivery points at the Plymouth and Pine Hills take stations (Exh. DTE-NSTAR-2-9).

alternative options reasonably available to the Company. Therefore, the Department finds the proposed acquisition to be consistent with the public interest and approves the Company's proposal.

V. ORDER

Accordingly, after due notice, hearing, and consideration, it is hereby

ORDERED: That the Permanent Release Agreement between NSTAR Gas Company and Dartmouth Power Associates Limited Partnership is hereby APPROVED; and it is

FURTHER ORDERED: That NSTAR Gas Company comply with any and all other directives contained in this Order.

By Order of the Department,

/s/
Paul G. Afonso, Chairman

/s/
James Connelly, Commissioner

/s/
W. Robert Keating, Commissioner

/s/
Judith F. Judson, Commissioner

An appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part. Such petition for appeal shall be filed with the Secretary of the Commission within twenty days after the date of service of the decision, order or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of the twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. G.L. c. 25, § 5.